

## REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claim 21 is currently being amended. No new matter is added.

This amendment changes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claims remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 21-40 are now pending in this application.

In paragraphs 1 and 2 of the Office Action, Claims 1, 23, 27, 32 and 34-36 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,041,845 (Arganbright). The Examiner states:

Arganbright discloses the claimed method steps of providing a liquid ice cream to an input of the cooling chamber 23, providing refrigerant to the chamber and then to an evaporator reservoir 22.

Applicant notes that paragraph 2 states that Claim 1 is rejected. Claim 1 is cancelled without prejudice in the preliminary amendment. This response will treat the rejection of Claim 1 as though the reference to Claim 1 refers to Claim 21, the first independent claim in the preliminary amendment.

In paragraphs 3-4 of the Office Action, Claims 24 and 33 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Arganbright. The Examiner states:

Arganbright discloses the claimed invention except for the relative volumes of the tank and the evaporator. The relative volumes of the tank and the evaporator are considered to be matters of obvious design choice....

Applicant respectfully traverses the rejections under 35 U.S.C. § 102(b) and under 35 U.S.C. § 103(a). Arganbright is referred to below as the cited art. The remarks made below are with respect to the present patent application only and should not be used against any proceeding or related application.

To advance prosecution, Applicant has amended Claim 21 to recite that the refrigerant floods the evaporator in liquid form due to the evaporator reservoir. Independent Claim 27 recites that superior cooling of the food stuff in the evaporator is attained by completely filling the evaporator with the liquid refrigerant, the auxiliary evaporator means causing the evaporator to be completely filled with the liquid refrigerant. Claim 36 recites that the refrigerant being a liquid in the cylindrical evaporator, the refrigerant accumulating as a vapor in the evaporator reservoir, thereby providing superior cooling in the cooling chamber. Therefore, each of the independent claims recites features related to the liquid form of the refrigerant being in the evaporator.

In direct contrast to this concept, Arganbright discloses that the refrigerant is mostly in gas form returning from the evaporator 23. Arganbright states:

refrigerant gas returning from evaporator 23 to the accumulator 22 is likely to have particles of liquid refrigerant entrained therewith.

See, Arganbright, col. 3, lines 32-39. This is an indication that the refrigerant through duct 49 is not mostly liquid refrigerant. Indeed, it appears it is only a small portion of that refrigerant is liquid refrigerant entrained with the gas because Arganbright requires the use of baffles 74 and 75 to capture liquid droplets.

Applicant notes that liquid refrigerant is supplied to accumulator 22. However, this liquid refrigerant is not from evaporator 23, but is from duct 45 which is connected to compressor 20 and receiver 21. Therefore, Arganbright clearly does not disclose the feature of liquid refrigerant in the evaporator as recited in independent claims 21, 27, and 36. Accordingly, independent claim 21 and its dependent claims 22-26, independent claim 27 and its dependent

claims 28-35, and independent claim 36 and its dependent claims 37-40 are patentable over Arganbright.

In paragraph 5 of the Office Action, the Examiners indicated that claims 22, 25, 26, 28-31 and 37-40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form. Applicant has not rewritten these claims in independent form because Applicant has not rewritten because Applicant believes claims 21-40 are patentable for the reasons described above.

In paragraph 6 of the Office Action, the Examiner noted a spelling error in claim 21. Applicant has amended claim 21 with accordance with the Examiner's suggestion.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

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